Competitive Carriers Association
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June 28, 2013

Via ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: **WT Docket No. 12-69:** *Promoting Interoperability in the 700 MHz Commercial Spectrum*
GN Docket No. 12-268: *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*
WT Docket No. 12-269: *Policies Regarding Mobile Spectrum Holdings*
WC Docket No. 10-90: *Connect America Fund*
WT Docket No. 10-208: *Mobility Fund*

Dear Ms. Dortch:

On June 26, 2013, Competitive Carriers Association (CCA) members listed in the attached Exhibit A met with Acting Chairwoman Clyburn, Louis Pereartz, Legal Advisor to Chairwoman Clyburn, and Dorothy Terry, Special Assistant to Chairwoman Clyburn, to discuss specific steps the Commission should take and policies the Commission should consider related to the above-referenced dockets.

Michael Prior, CEO of Atlantic Tele-Network and as CCA's Chairman of the Board, briefed the Chairwoman on CCA's broad and expansive membership and encouraged the Commission generally to develop competitive policies for the benefit of the entire wireless industry. He then turned the meeting over to the attending members to discuss issues of importance to each.

Interoperability

As the most pressing matter, CCA members encouraged the Chairwoman to immediately restore interoperability to the Lower 700 MHz Band. C Spire Wireless informed the Chairwoman that it spent $200 million on 700 MHz spectrum in Auction 73, and that, upon full restoration of a single, unified band specification for all operations in the Lower 700 MHz paired spectrum, C Spire will use this spectrum to offer LTE service to over 2.5 million POPs in its service territory.[1] Many of these individuals are located in rural areas, where the broadband divide continues to grow.[2] Others are part of

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[1] *See Ex Parte* Letter from Benjamin M. Moncrief, Director, Government Relations, C Spire Wireless to Marlene H. Dortch, Secretary, Federal Communications Commission, WT Docket No. 12-69 (filed Jan. 14, 2013).

[2] *See, e.g.*, Hanns Kuttner, Hudson Institute, *Broadband for Rural America: Economic Impacts and Economic Opportunities* 18 (Oct. 2012), *available at* http://www.hudson.org/files/publications/RuralTelecom-Kuttner--1012.pdf (noting that "the Internet has transformed commerce, brought new education opportunities, enhanced financial services, facilitated medical treatments across great distances, and even offered a strengthened sense of

impoverished and minority communities, who rely more heavily on wireless as their primary or only source of Internet access.[3] In fact, more and more American households continue to substitute wireless for wireline service altogether.[4] And availability of 3G and 4G service drives mobile Internet use, which adversely and disproportionately affects these communities.[5]

Thanks to E-rate and other support programs in rural communities that help to provide fixed broadband service to our schools, many of our nation's children are reaping the benefit of broadband connectivity over fiber. But students lose connectivity and their ability to engage with digital learning tools when they leave their schools and local libraries, putting them at a disadvantage to their counterparts in more urban parts of the country who continue to have access to mobile broadband services.[6] In a recent Pew Internet poll, 79 percent of teachers reported having students access assignments online, and 76 percent of teachers reported having their students submit assignments online.[7] But saliently, while 54 percent of teachers said all or almost all of their students have sufficient access to digital tools *at school*, only 18 percent said that all or almost all of their students have access to the digital tools they need *at home*.[8] What's more, teachers of the lowest income students were the *least* likely to say their students have sufficient access to the digital tools they need, both in school *and at home*.[9]

Interoperability in the Lower 700 MHz would allow competitive, regional and rural operators to bridge that gap; to utilize the low band spectrum they have already purchased to deploy mobile broadband services in the rural areas they have historically served. That means millions of rural, regional and lower-income Americans will gain access to 4G LTE mobile broadband services or will see increased competition and innovative pricing and plans in their local market— allowing the people of these critical heartland communities to affordably connect and engage as they move throughout their

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community," that "rural America stands at a precipice" and that "without broader access to broadband capacity, rural America will lack one of the necessary tools to contain, if not narrow, the gap.").

3 U.S. Census Bureau, Pub. No. P20-569, *Computer and Internet Use in the United States: Population Characteristics* 12 (May 2013) (Census Study) ("When compared to percentages of home Internet use, smartphones appear to be leveling the Internet use disparities traditionally present for race and ethnicity groups. While 27 percentage points separated the highest and lowest reported rates of home Internet use . . . a smaller gap of 18 percentage points emerged once smartphone use was factored into overall connectivity rates . . . .").

4 Ctrs. for Disease Control & Prevention, U.S. Dep't of Health and Human Servs., CDC Bull. No. 61, *Wireless Substitution: State-level Estimates from the National Health Interview Survey, 2010- 2011* 1 (Oct. 12, 2012) (finding that "[a]s of the second half of 2011, one in three U.S. households (34.0%) had only wireless telephones," that "this difference is expected to grow."). This figure increased to nearly two in every five American homes (38.2%) as of December 2012. Ctrs. for Disease Control & Prevention, U.S. Dep't of Health and Human Servs., *Wireless Substitution, Early Release of Estimates from the National Health Interview Survey, July-December 2012* 1 (June 2013)

5 Census Study at 12 ("At least one driver of smartphone use is the ability to access mobile telecommunications technology, such as '3G' or '4G' data networks . . . . [T]he percentage of smartphone users in metropolitan areas (50.0 percent) was significantly higher than for nonmetropolitan areas (38.9 percent), a difference at least somewhat attributable to these high-speed data networks being more readily available in urban areas.")

6 *See, e.g.*, Anton Troianovski, *The Web-Deprived Study at McDonald's*, Wall St. J., Jan. 29, 2013, at A1 (noting that "in many rural areas, high-speed Internet through traditional phone lines simply isn't available at any price" and how the availability of affordable mobile broadband services is helping to bridge the digital divide).

7 Kristen Purcell *et al.*, Pew Internet & American Life Project, *How Teachers are Using Technology at Home and in their Classrooms* 3 (Feb. 28, 2013).

8 *Id.*

9 *Id.*

towns and across the country. As the health of the American economy going forward hinges on the educational resources available to our children, it is essential that we open every available door—starting with maximizing the amount of low-cost, high-speed broadband available not only where our children go to school, but also where they live and study.

Union Wireless (Union) described how the lack of interoperability has forced to the sideline several millions of dollars of spectrum and network investment until Band Class 12 devices are available for its consumers. Once interoperability is restored and devices are available, Union stands ready to immediately provide 4G LTE services to its customers in rural Wyoming and Colorado, immediately injecting that sidelined investment into the economy.

Providing rural America with access to broadband in places like Mississippi, Wyoming and other states has spillover effects outside of the wireless industry. For example, a 2011 study by Dr. Raul Katz of Columbia University confirmed the positive impact that a competitive wireless industry can have on jobs, estimating that making competitive wireless broadband available to rural America would generate nearly 117,000 jobs between 2011 and 2014 and increase the median income in rural areas by an average of over $1,200.[10] C Spire Wireless explained that interoperability would enable it to offer LTE service over its Lower 700 MHz spectrum making competitively-priced, mobile broadband service available to more healthcare providers, educators, farmers and other contributors to the American economy throughout much of rural Mississippi. Similar effects would be felt throughout the country in areas where competitive carriers hold Lower 700 MHz A Block licenses.

US Cellular described its practical struggles in attempting to obtain devices without interoperability. Even as a mid-tier carrier with over 5.1 million subscribers, US Cellular cannot get access to a Band Class 12 iPhone. US Cellular stressed that an interoperability order is essential to gaining access to a competitive device portfolio. For instance, US Cellular's ability to expand 700 MHz service beyond the reach of its 850 MHz network in places such as rural West Virginia would be furthered by access to Band Class 12 phones from vendors including Apple and Blackberry. US Cellular also stressed that there are examples from numerous other industries throughout history where basic standards were adopted by government agencies to maintain interoperability. For example, regulators have set standards related to height requirements for bridges, railroad gauges, electrical voltage and motor vehicle safety equipment.

In addition to the economic benefits that interoperability will have on the wireless industry and its consumers, , there are numerous spillover effects this investment would have on other industries such as healthcare, education, agriculture and retail, , and therefore a regulatory solution is imperative. But as of today an industry solution to the lack of interoperability in the Lower 700 MHz has not occurred, mostly because AT&T has no real incentive to reach a consensus. In fact, AT&T has a strong incentive *not* to incorporate inclusive technology into its devices because separating adjacent Band Class 12 frequencies from AT&T's devices increases consumer switching costs and reduces the likelihood of costly churn off of AT&T's network. Although not discussed at the meeting, it is instructive to note that on the same day CCA and its members met with Chairwoman Clyburn, AT&T met with individuals from the Wireless Telecommunications Bureau to again raise its arguments against interoperability that have been thoroughly aired and disproven in the record.[11]

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[10] Dr. Raul L. Katz, *et al.*, "Economic Impact of Wireless Broadband in Rural America," at 8-9 (2011), *available at* http://www.teleadvs.com/wp-content/uploads/RCA_FINAL.pdf.

[11] *See Ex Parte* Letter from Joseph P. Marx, Assistant Vice President, Federal Regulatory, AT&T Services, Inc. to Marlene H. Dortch, Secretary, Federal Communications Commission (and accompanying presentation), WT Docket No. 12-69 (filed June 26, 2013).

Several live, field studies submitted in the record demonstrate that there are no legitimate or technical reasons not to immediately restore interoperability to the Lower 700 MHz spectrum.[12] CCA also pointed to DISH Network's recent study proving that Lower 700 MHz E Block authorized power levels do not impact the feasibility of device interoperability.[13] In addition, restoring interoperability will have minimal, if any, cost implications. CCA recently conducted a cost-benefit analysis for restoring interoperability to the Lower 700 MHz.[14] The benefits to restoring interoperability included reduced network and equipment costs for carriers, lower development costs for vendors, accelerated design and production times for manufacturers, reduced switching costs for customers, and accelerate innovation for the industry as a whole, including build-out of new, mobile, high-speed broadband networks and services.[15] Meanwhile, the costs would be negligible to do so: on the hardware side, a Band Class 12 duplexer should be less expensive than a Band Class 17 duplexer due to larger economies of scale, and the software update to AT&T base stations necessary to support Band Class 12 could be done remotely and at a tiny fraction of the total costs of providing services to consumers.[16] In total, the record is complete in this matter, and what Lower A Block licensees have conclusively proven is that there are no technical impediments to interoperability, and that any costs to do so are minimal.

As CCA members noted during the meeting, interoperability dates back to the first issuance of cellular licenses roughly two decades ago. This standard practice continued all the way up through Auction 73, after which AT&T manipulated 3GPP standards-setting to create a boutique band class for its own financial benefit. Ever since that time, AT&T has fought at every turn to preserve this business advantage. It is up to the Commission to act, and it must act soon, as A Block licensees are staring down the barrel of a looming interim construction benchmark deadline and the Hobson's Choice of either building an economically-inefficient license save or abandoning almost $2 billion in investment. CCA members asked the Chairwoman to immediately circulate an order restoring interoperability to the Lower 700 MHz, for the benefit of competition, investment and job creation, public safety and most importantly, for consumers.

Spectrum Aggregation and Incentive Auctions

CCA members voiced their concerns with the Chairwoman over spectrum aggregation. Several carrier members, including Sprint, T-Mobile, SouthernLINC and Immix Wireless stated their need for additional spectrum, and in particular spectrum below 1 GHz. CCA members noted the vast shortage of usable spectrum, and in particular spectrum below 1 GHz. CCA members highlighted the excellent propagation characteristics of low-band spectrum which is therefore vital to competitive carriers' ability to expand their network coverage and effectively compete. AT&T and Verizon currently control a

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12 Reply Comments of V-Comm, L.L.C., Prepared on behalf of Cavalier Wireless, Continuum 700, King Street Wireless, MetroPCS Communications, Inc., Vulcan Wireless LLC, WT Docket No. 12-69 (July 13, 2012); *Restoring Interoperability to the Lower 700 MHz Band*, attached to letter from Rebecca Murphy Thompson, General Counsel, CCA to Marlene H. Dortch, Secretary, Federal Communications Commission, WT Docket No. 12-69 (filed Jan. 4, 2013).

13 *Ex Parte* Letter from Jeffrey H. Blum, Sr. Vice President & Deputy General Counsel, DISH Network to Marlene H. Dortch, Secretary, Federal Communications Commission, WT Docket No. 12-69 (filed May 29, 2013).

14 *Ex Parte* Letter from Rebecca Murphy Thompson, General Counsel, CCA to Marlene H. Dortch, Secretary, Federal Communications Commission, WT Docket No. 12-69 (filed Jan. 31, 2013).

15 *Id.* at 1-2.

16 *Id.* at 3-4.

combined 84% of the MHz-POPs of low-frequency spectrum.[17] CCA reiterated its proposed revisions to the Commission's spectrum screen, including a screen for local spectrum holdings below 1 GHz.[18] CCA members asked that the Commission consider these revisions to the spectrum screen, especially in the context of the upcoming incentive auction.

CCA members also discussed ways to increase participation and therefore maximize revenue in the incentive auction. Bluegrass Cellular explained how use of large geographic licensing areas will effectively exclude rural carriers from participating in the 600 MHz auction, and that smaller geographic license areas, such as Cellular Market Areas (CMAs), would allow Bluegrass to participate in the auction. CCA reminded the Bureau that in Auction 73, as a result of competition from smaller, rural and regional carriers, B Block licenses sold for more on a MHz*POP basis, as opposed to other spectrum blocks auctioned in Economic Areas and Regional Economic Area Groups.[19]

CCA members called on the Commission to use its authority under the Communications Act and the authority reaffirmed by provisions in the Middle Class Tax Relief and Job Creation Act of 2012 (the Spectrum Act) to create a pro-competitive auction framework for the upcoming incentive auction of 600 MHz spectrum. In addition to the spectrum aggregation limits set forth above, CCA members set out policies such as bidding credits, build-out requirements and required interoperability that would encourage competitive carrier participation in the auction. Several carriers asserted that they may not participate in the auction if interoperability is not expressly required by the Commission at the beginning of the auction. Immix Wireless further noted that, in the course of exploring investor opportunities it has found that investors are reluctant to provide capital for competitive carriers to participate in the auction without an interoperability requirement on the spectrum. Immix Wireless needs lower-band spectrum to remain competitive, and it views the 600 MHz auction as a "best-and-last" opportunity to gain access to that spectrum. Sprint noted that competitive carriers' absence from the upcoming auction very likely will result in reduced auction revenues.

USF

Finally, CCA members discussed the Commission's recent universal service fund (USF) reforms. Atlantic Tele-Network expressed concern that the reforms adopted by the Commission, while necessary, are not technologically neutral to the detriment of wireless carriers. Union Wireless noted consumers' preference for wireless technology, which is not reflected in the Commission's recent reform efforts. MTPCS noted that operating expenses are very material in high cost areas such as rural Texas and Louisiana. MTPCS urged the Commission to ensure that areas designated for one-time construction support (capex) will be eligible for Phase II support of operating expenses, in order to provide continued service to the public and, where applicable, the transition from 3G to 4G.[20] GCI voiced

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17 *See Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions with Respect to Mobile Wireless, Including Commercial Mobile Services*, WT Docket No. 11-186, Sixteenth Report, 28 FCC Rcd 3700, 3716-17 (rel. Mar. 21, 2013).

18 Comments of Competitive Carriers Association, WT Docket No. 12-269 at 9-14, 16-18 (filed Nov. 28, 2012).

19 *See* Testimony of Steven K. Berry, President and CEO, Competitive Carriers Association, "Competition at the Crossroads: Preventing Duopoly in Today's Wireless Marketplace," U.S. Senate Committee on Commerce, Science and Transportation, Subcommittee on Communications, Technology, and the Internet at 8-9 (June 4, 2013), *available at* http://www.commerce.senate.gov/public/?a=Files.Serve&File_id=d9bd6e3c-75c4-4323-afc4-9aa933160118.

20 *Ex Parte* Letter from David A. LaFuria and Marc Paul, Counsel to Union Wireless, MTPCS, LLC and Carolina West Wireless, Inc. to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket Nos. 10-90, 05-337 and WT Docket No. 10-208 (filed June 25, 2013).

similar concerns related to its provisioning of service to high-cost areas in Alaska. CCA members asked that the Commission put the universal service fund back on a technologically neutral path and allocate more funding for mobile wireless broadband deployment, consistent with consumers' expressed preferences.

This *ex parte* notification is being filed electronically with your office pursuant to Section 1.1206 of the Commission's Rules.

Sincerely,

/s/

Rebecca Murphy Thompson
General Counsel

cc (via email): Chairwoman Mignon Clyburn
Mr. Louis Pereartz
Ms. Dorothy Terry

Exhibit A

Name	**Company**
Michael Prior	Chairman, CCA (Atlantic Tele-Network)
Doug Minster	Atlantic Tele-Network
Ron Smith	Bluegrass Cellular
Hu Meena	C Spire Wireless
Ben Moncrief	C Spire Wireless
Steven K. Berry	CCA
Rebecca Murphy Thompson	CCA
Tim Donovan	CCA
C. Sean Spivey	CCA
Thomas Cullen	DISH Network
Jeff Blum	DISH Network
Dan Boyette	GCI
Jonathan Foxman	MTPCS, LLC d/b/a Cellular One
Julia Tanner	MTPCS, LLC d/b/a Cellular One
Linda Martin	Keystone Wireless d/b/a Immix Wireless
Terry Addington	SI Wireless LLC d/b/a MobileNation
Don Horsley	SouthernLINC Wireless
Michael Rosenthal	SouthernLINC Wireless
Larry Krevor	Sprint
Tom Sugrue	T-Mobile
John Gockley	U.S. Cellular
Grant Spellmeyer	U.S. Cellular
Eric Woody	Union Wireless